

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:14-cr-023

Also 3:20-cv-181

- vs -

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

DEMIAN PINA,

Defendant.

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**DECISION AND ORDER**

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This criminal case is before the Court on Defendant's Motion to Vacate pursuant to 28 U.S.C. § 2255 (ECF No. 153). Upon initial review of the Motion to Vacate under Rule 4 of the Rules Governing § 2255 Cases, the Magistrate Judge concluded the Motion was barred by the one-year statute of limitations applicable to such Motions and filed a Report recommending that the Motion be denied on that basis (ECF No. 156). The Report was filed May 12, 2020, and advised Defendant that he had seventeen days in which to object. That deadline has now passed and no objections have been filed.

Accordingly, the Report is hereby ADOPTED and the Motion to Vacate is DISMISSED WITH PREJUDICE. The Clerk shall enter judgment to that effect pursuant to Fed.R.Civ.P. 58.

Because reasonable jurists would not disagree with this conclusion, Petitioner is denied a certificate of appealability and the Court certifies to the Sixth Circuit that any appeal would be objectively frivolous and should not be permitted to proceed *in forma pauperis*.

June 12, 2020.

\*s/Thomas M. Rose

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Thomas M. Rose  
United States District Judge